

REMARKS

Claims 50-71 are pending. Applicant has amended claims 59 and 68 to correct minor typographical errors.

The Examiner has rejected claims 50-71 under 35 U.S.C. § 103(a) as being unpatentable over Rassman in view of Hughes. Applicant respectfully traverses this rejection.

Applicant is puzzled by the Examiner's reliance on Rassman. Rassman describes a system that a person (i.e., an operator) uses to generate a schedule, whereas applicant's claims are directed to a computer system itself that generates a schedule. Rassman describes a system that allows an operator to manually schedule operations in a hospital.

The operator loads this information [e.g., requests for use of resources and commitments of personnel] into the data base in any conventional manner and then proceeds to schedule the various resources. If an attempt is made to set up a schedule that involves apparently inconsistent or incompatible use of a given resource, a conflict indicator would be displayed. Having thus been alerted, the operator would then either revise the proposed schedule or determine whether the conflict is real or only apparent.

(Rassman, 6:51-59.) The Rassman system simply provides a user interface through which the operator can record and view a schedule that is generated by the operator. Although the Rassman system does point out conflicts in a proposed schedule, it is up to the operator to revise the schedule to address the conflicts.

Applicant's claims in contrast are directed to "a computer-implemented method for generating a schedule," "a computer-readable medium containing instructions for controlling a computer system to generate a schedule," and "a computer system for generating a schedule."

The Examiner asserts that Rassman teaches "scheduling the tasks by, for the assignment of a task, determining a time when the resource of the assignment is available

for the duration of the resource." (Office Action, Dec. 30, 2004, p.4.) Even assuming, *arguendo*, that Rassman teaches such scheduling (which it does not), Rassman only describes that an operator performs scheduling and neither teaches nor suggests that a computer system could perform such scheduling, let alone enable such a computer system to do so.

All the claims recite "automatically dividing tasks into assignments," or similar language. The Examiner points to Rassman at column 10, lines 44-60 and column 15, lines 9-12 as showing "automated functionality." (Office Action, Dec. 30, 2004, p.5.) Although these portions of Rassman include the word "automatically," the portions have nothing to do with "automatically dividing tasks" as recited by claim 1. Rather, these portions relate to displaying "status indicia automatically" and to communicating conflict indicia "automatically" by means of a beeper. These portions are thus unrelated to automatically dividing tasks into assignments.

The Examiner is taking Official Notice that an "assignment can be completed using a single resource" on the bases that this "feature is a well known practice in project management art since long before Applicant's invention." (Office Action, Dec. 30, 2005, p. 5.) Applicant respectfully disagrees.

First, although this is the seventh substantive office action during the prosecution of this application, this is the first time the Examiner has taken Official Notice relating to the meaning of "assignment." The term "assignment" has been used in all the claims throughout prosecution of this application and is used consistently throughout applicant's specification as a portion of a task that can be completed by a single resource. For example, an assignment is generated as a portion of a task "which can individually be scheduled to a resource." (Specification, 7:19-26.) In previously rejecting the claims, the Examiner relied upon cited prior art as describing "assignments." Apparently, the Examiner now believes that the cited prior art did not describe "assignments." Therefore, the Examiner is now relying on personal knowledge that is other than in the cited prior art.

As such, applicant respectfully requests the Examiner provide an affidavit setting forth specific factual statements and explanation to support his position under 37 C.F.R. § 1.104(d)(2).

Second, the background of applicant's specification explains the problems of prior art project scheduling tools, such as CPM, that are task-oriented. The background explains the need to solve these problems. Applicant suggests scheduling based on "assignments," rather than "tasks," as a solution. Applicant is unaware of any prior scheduling system that distinguished between "tasks" and "assignments" as defined in the specification. Applicant needs to review documentation that supports the Official Notice so that applicant can assess whether the Examiner is correct or whether the Examiner is misinterpreting the prior art or the claims. Applicant respectfully demands that the Examiner produce authority for that on which he is taking Official Notice.

Based upon these remarks, applicant respectfully requests reconsideration of this application and its early allowance. If the Examiner has any questions or believes a telephone conference would expedite prosecution of this application, the Examiner is encouraged to call the undersigned at (206) 359-8548.

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Respectfully submitted,

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